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HOUSE BILL 244

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO STATE CONTRACTS; PROHIBITING CERTAIN CONTRIBUTIONS
AND SOLICITATION OF CONTRIBUTIONS BY THE PRINCIPALS OF STATE
CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS; PROHIBITING
CERTAIN SOLICITATIONS OF CONTRIBUTIONS FROM STATE CONTRACTORS
AND PROSPECTIVE STATE CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Campaign Reporting Act is
enacted to read:

"[NEW MATERIAL] CONTRIBUTIONS FROM STATE CONTRACTORS
PROHIBITED.--

A. No principal of a state contractor or prospective
state contractor, with regard to a state contract, bid
solicitation or request for proposals with or from a state agency
in the executive, legislative or judicial branch or an

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1 instrumentality of the state, shall make a contribution to or
2 solicit contributions on behalf of:

3 (1) a candidate or candidate committee
4 established by a candidate for nomination or election to a
5 state public office; or

6 (2) a political committee authorized to make
7 contributions or expenditures to or for the benefit of such
8 candidates.

9 B. The contribution limitations provided for in
10 Subsection A of this section as applied to principals of a
11 state contractor shall remain in effect for two years following
12 the expiration of a state contract held by that state
13 contractor.

14 C. On or after July 1, 2011, if a principal of a
15 prospective contractor has contributed to a state public
16 officer or candidate for state public office in the two years
17 immediately preceding the issuance of a request for bids or
18 request for proposals, neither a state agency nor an
19 instrumentality of the state shall enter into a state contract
20 with that prospective state contractor pursuant to that request
21 for bids or request for proposals.

22 D. If a principal of a state contractor makes or
23 solicits a contribution prohibited by Subsection A of this
24 section, the contracting state agency or instrumentality of the
25 state may, in the case of a state contract executed on or after

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1 the effective date of this section, void the existing contract
2 with that contractor, and no state agency or instrumentality of
3 the state shall award that state contractor a state contract or
4 an extension or an amendment to a state contract for two years
5 after the election for which the contribution is made or
6 solicited. Each state contract shall include the provisions of
7 this subsection and Subsection A of this section as conditions
8 of the contract.

9 E. A state public officer, candidate for state
10 public office or any agent of a state public officer or
11 candidate shall not solicit contributions on behalf of a
12 candidate, a candidate committee or a political committee from
13 a principal of a state contractor or prospective state
14 contractor.

15 F. The provisions of this section shall not
16 restrict a principal of a state contractor or prospective state
17 contractor from establishing a candidate committee for the
18 principal's own campaign or from soliciting contributions from
19 persons not prohibited from making contributions by this
20 section."

21 Section 2. Section 1-19-26 NMSA 1978 (being Laws 1979,
22 Chapter 360, Section 2, as amended) is amended to read:

23 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
24 Act:

25 A. "advertising campaign" means an advertisement or

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1 series of advertisements used for a political purpose and
2 disseminated to the public either in print, by radio or
3 television broadcast or by any other electronic means,
4 including telephonic communications, and may include direct or
5 bulk mailings of printed materials;

6 B. "anonymous contribution" means a contribution
7 the contributor of which is unknown to the candidate or [~~his~~]
8 the candidate's agent or the political committee or its agent
9 who accepts the contribution;

10 C. "bank account" means an account in a financial
11 institution located in New Mexico;

12 D. "campaign committee" means two or more persons
13 authorized by a candidate to raise, collect or expend
14 contributions on the candidate's behalf for the purpose of
15 electing [~~him~~] the candidate to office;

16 E. "candidate" means an individual who seeks or
17 considers an office in an election covered by the Campaign
18 Reporting Act, including a public official, who either has
19 filed a declaration of candidacy or nominating petition or:

20 (1) for a nonstatewide office, has received
21 contributions or made expenditures of one thousand dollars
22 (\$1,000) or more or authorized another person or campaign
23 committee to receive contributions or make expenditures of one
24 thousand dollars (\$1,000) or more for the purpose of seeking
25 election to the office; or

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1 (2) for a statewide office, has received
2 contributions or made expenditures of two thousand five hundred
3 dollars (\$2,500) or more or authorized another person or
4 campaign committee to receive contributions or make
5 expenditures of two thousand five hundred dollars (\$2,500) or
6 more for the purpose of seeking election to the office or for
7 candidacy exploration purposes in the years prior to the year
8 of the election;

9 F. "contribution" means a gift, subscription, loan,
10 advance or deposit of money or other thing of value, including
11 the estimated value of an in-kind contribution, that is made or
12 received for a political purpose, including payment of a debt
13 incurred in an election campaign, but does not include the
14 value of services provided without compensation or unreimbursed
15 travel or other personal expenses of individuals who volunteer
16 a portion or all of their time on behalf of a candidate or
17 political committee, nor does it include the administrative or
18 solicitation expenses of a political committee that are paid by
19 an organization that sponsors the committee;

20 G. "deliver" or "delivery" means to deliver by
21 certified or registered mail, telecopier, electronic
22 transmission or facsimile or by personal service;

23 H. "election" means any primary, general or
24 statewide special election in New Mexico and includes county
25 and judicial retention elections but excludes municipal, school

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1 board and special district elections;

2 I. "election year" means an even-numbered year in
3 which an election covered by the Campaign Reporting Act is
4 held;

5 J. "expenditure" means a payment, transfer or
6 distribution or obligation or promise to pay, transfer or
7 distribute any money or other thing of value for a political
8 purpose, including payment of a debt incurred in an election
9 campaign or pre-primary convention, but does not include the
10 administrative or solicitation expenses of a political
11 committee that are paid by an organization that sponsors the
12 committee;

13 K. "person" means an individual or entity;

14 L. "political committee" means two or more persons,
15 other than members of a candidate's immediate family or
16 campaign committee or a husband and wife who make a
17 contribution out of a joint account, who are selected,
18 appointed, chosen, associated, organized or operated primarily
19 for a political purpose; and "political committee" includes:

20 (1) political action committees or similar
21 organizations composed of employees or members of any
22 corporation, labor organization, trade or professional
23 association or any other similar group that raises, collects,
24 expends or contributes money or any other thing of value for a
25 political purpose;

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1 (2) a single individual [~~who by his~~] whose
2 actions [~~represents~~] represent that [~~he~~] the individual is a
3 political committee; and

4 (3) a person or an organization of two or more
5 persons that within one calendar year expends funds in excess
6 of five hundred dollars (\$500) to conduct an advertising
7 campaign for a political purpose;

8 M. "political purpose" means influencing or
9 attempting to influence an election or pre-primary convention,
10 including a constitutional amendment or other question
11 submitted to the voters;

12 N. "prescribed form" means a form or electronic
13 format prepared and prescribed by the secretary of state;

14 O. "principal of a state contractor or prospective
15 state contractor" means:

16 (1) a person who is a member of the board of
17 directors of, or has an ownership interest in, a state
18 contractor or prospective state contractor, which is a business
19 entity, except for an individual who owns less than five
20 percent of the shares of that state contractor or prospective
21 state contractor that is a publicly traded corporation;

22 (2) a person who is employed by a state
23 contractor or prospective state contractor, which is a business
24 entity, as president, treasurer or executive or senior vice
25 president;

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1 (3) a person who is the chief executive
2 officer of a state contractor or prospective state contractor,
3 which is not a business entity;

4 (4) an employee of any state contractor or
5 prospective state contractor who has managerial or
6 discretionary responsibilities with respect to a state
7 contract;

8 (5) the spouse or a dependent child of a
9 person described in Paragraphs (1) through (4) of this
10 subsection; or

11 (6) a political committee established by or on
12 behalf of a person described in this subsection;

13 [Ø-] P. "proper filing officer" means either the
14 secretary of state or the county clerk as provided in Section
15 1-19-27 NMSA 1978;

16 Q. "prospective state contractor" means a person,
17 business entity or nonprofit organization that submits a bid in
18 response to a bid solicitation by the state, a state agency or
19 an instrumentality of the state, or a proposal in response to a
20 request for proposals by the state, a state agency or an
21 instrumentality of the state, until the contract has been
22 entered into. "Prospective state contractor" does not include
23 a municipality or any other political subdivision of the state
24 or an employee in the executive, legislative or judicial branch
25 of state government or instrumentality of the state, whether

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1 full- or part-time, in such person's capacity as a state or
2 instrumentality of the state employee;

3 [P-] R. "public official" means a person elected to
4 an office in an election covered by the Campaign Reporting Act
5 or a person appointed to an office that is subject to an
6 election covered by that act;

7 [Q-] S. "reporting individual" means every public
8 official, candidate or treasurer of a campaign committee and
9 every treasurer of a political committee; [and]

10 T. "state agency" means an office, department,
11 board, council, commission, institution or other agency in the
12 executive, legislative or judicial branch of state government;

13 U. "state contract" means an agreement or contract
14 with the state or any state agency or instrumentality of the
15 state, having a value of twenty thousand dollars (\$20,000) or
16 more, or a combination or series of such agreements or
17 contracts having a value of fifty thousand dollars (\$50,000) or
18 more in a fiscal year, for:

19 (1) the rendition of services;

20 (2) the furnishing of any material, supplies
21 or equipment;

22 (3) the construction, alteration or repair of
23 any public building or public work;

24 (4) the acquisition, sale or lease of any land
25 or building;

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1 (5) a licensing arrangement; or

2 (6) a grant, loan or loan guarantee;

3 V. "state contractor" means a person, business
4 entity or nonprofit organization that enters into a state
5 contract, which shall be deemed to be a state contractor until
6 the termination of the contract. "State contractor" does not
7 include a municipality or any other political subdivision of
8 the state or an employee in the executive, legislative or
9 judicial branch of state government or an instrumentality of
10 the state, whether full- or part-time, in that person's
11 capacity as a state or instrumentality of the state employee;
12 and

13 [R-] W. "statement of exception" or "statement"
14 means the prescribed form subscribed and sworn to by a
15 candidate to indicate that the candidate does not intend to
16 raise or expend the minimum amount required for the filing of a
17 report of expenditures and contributions as provided in Section
18 1-19-33 NMSA 1978."